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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR 07-00284 MJJ
Plaintiff,)	
v.)	UNITED STATES' SENTENCING
)	MEMORANDUM
MAURICE KEVIN COLEMAN,)	Hearing Date: February 29, 2008
Defendant.)	Time: 1:30 p.m.

I. INTRODUCTION/BACKGROUND

On October 23, 2007, the parties in this case submitted a proposed plea agreement to the Court for its consideration. In the plea agreement, the parties agreed that Defendant's adjusted offense level is 13, and that Defendant's criminal history category would be determined by the Court. See Plea Agreement at ¶¶ 7, 8. The parties agreed to a sentence of imprisonment at the high end of the applicable Guidelines range. See Plea Agreement at ¶ 8.

As detailed below, the United States disagrees with the conclusion of the U.S. Probation Office regarding the adjusted offense level, agrees with U.S. Probation's conclusion of a Criminal History Category III, and recommends that a sentence of 24 months be imposed.

1 **II. GUIDELINES CALCULATIONS**

2 On February 20, 2008, the U.S. Probation Office submitted a Pre-Plea Presentence
3 Investigation Report, which contained a computation establishing a Criminal History Category of
4 III. The United States agrees with the Probation Department's determination that Defendant has
5 a Criminal History Category of III.

6 A Total Offense Level of 13 and a Criminal History Category of III results in a
7 Sentencing Guidelines Range of 18 to 24 months of imprisonment. The parties have agreed to a
8 sentence at the high end of the applicable Guideline range, and the United States recommends a
9 sentence of 24 months imprisonment.

10 In the present case, the defendant is charged with being a felon in possession of a firearm
11 and ammunition on April 5, 2007 in Oakland, California. U.S. Probation has characterized straw
12 purchases of guns in Nevada on March 7, 2007 as relevant conduct. The United States disagrees
13 that the straw purchases should be characterized as relevant conduct within the meaning of
14 U.S.S.G. § 1B1.3. In determining whether actions qualify as relevant conduct within the
15 Guidelines, Courts consider the degree of similarity of the offenses, the regularity of the offenses,
16 and the time interval between the offenses. See United States v. Hahn, 960 F.2d 903 (9th Cir.
17 1992); U.S.S.G. § 1B1.3, Application Note 9(B). The conduct in the present case is not similar,
18 as the previous conduct dealt with unrelated straw purchases, while the charged conduct is being
19 a felon in possession of a firearm and ammunition. The conduct here lacks regularity, as the
20 straw purchases occurred on only one other day. The time interval between the offenses was not
21 particularly close, as approximately one month elapsed between the conduct. Taken together in
22 this case, the government submits the factors do not support application of the relevant conduct
23 enhancement. Consequently, the United States disagrees that the enhancement in Paragraph 24
24 of the Pre-Plea Presentence Investigation Report should apply.

1 **III. THE UNITED STATES' SENTENCING RECOMMENDATION**

2 In agreement with the criminal history category calculated by the U.S. Probation Office,
3 and in accordance with the agreement between the parties, the United States respectfully requests
4 that the Court sentence Defendant to a term of twenty four (24) months imprisonment; three (3)
5 years of supervised release (with conditions to be fixed by the Court); and a \$100 mandatory
6 special assessment.

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8 DATED: February 22, 2008

Respectfully submitted,

9 JOSEPH P. RUSSONIELLO
10 United States Attorney

11
12 /s/
CHINHAYI J. COLEMAN
13 Assistant United States Attorney
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